

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL NO. 1:04CR64

UNITED STATES OF AMERICA

vs.

KEVIN CHRISTOPHER MAKERSON

)
)
)
)
)
)
)
)

ORDER

THIS MATTER is before the Court on the Defendant's motion for reconsideration or, in the alternative, a notice of appeal filed December 1, 2008.

In his motion, the Defendant argues that instead of denying him an extension of time to file an appeal, the Court could have withdrawn the September 5, 2008, order denying his motion for reduction of sentence, "immediately reimposed the same Order and thus restart[ed] the ten (10) day process for noticing an appeal." **Defendant's Motion, at 1-2.** However, the Defendant cites no statutory authority or any Rule of Criminal Procedure that would permit the Court to do so nor does the Court know of such a procedure. The motion is denied.

IT IS, THEREFORE, ORDERED that Defendant's motion for reconsideration is hereby **DENIED**.

IT IS FURTHER ORDERED that, in accordance with Defendant's desired alternative, the Clerk shall construe the Defendant's motion as a notice of appeal of the Court's November 17, 2008, Order, and transmit same to the Fourth Circuit Court of Appeals.

Signed: December 9, 2008

A handwritten signature in black ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

